

BEFORE THE OFFICE OF THE COMMISSIONER OF RAILROADS

STATE OF WISCONSIN

Petition of the Wisconsin Department of Transportation for the Establishment of Two Public Crossings of the Wisconsin & Southern Railroad Co. Tracks with the Thiede Trail Access and the Jonas Trail Access in the Town of Pulaski, Iowa County

9170-RX-182

Petition of the Wisconsin Department of Transportation for the Establishment of a Public Crossing of the Wisconsin & Southern Railroad Co. Tracks with the STH 78 Trail Access in the Town of Mazomanie, Dane County

9170-RX-183

FINAL DECISION

By letter dated July 12, 2004, the Wisconsin Department of Transportation (DOT) filed a petition with the Office of the Commissioner of Railroads (OCR) under §§195.28 and 195.29, Stats., for the establishment of three public crossings of the Wisconsin & Southern Railroad Co. (WSOR) tracks. Specifically, DOT petitioned to establish two public crossings of the WSOR tracks with the Thiede Trail Access and the Jonas Trail Access in the Town of Pulaski, Iowa County and the STH 78 Trail Access in the Town of Mazomanie, Dane County.

Pursuant to due notice, public hearing was held in this matter on August 26, 2004 in Madison, Wisconsin with hearing examiner Douglas S. Wood presiding.

On September 1, 2004, the hearing examiner issued a proposed decision. On September 7, 2004, the DOT filed comments on the proposed decision. The Commissioner adopts the proposed decision as final without change.

The DOT notes that the proposed findings of fact state that the roadway dip will be filled in at the Jonas access. It is the Thiede access that has the dip and will be partially filled in. The gravel will be refreshed at the Jonas access. The proposed decision also stated that the Jonas and Thiede crossings are 73' and 75' from the STH 80/133 intersection, but it would be more correct to state that the crossings are 73' and 75' from STH 80/133, which is the wording used for the STH 78 access. These corrections are made in the Findings.

DOT also requested that the final decision address the issue of the W10-1 advance warning signs for southbound traffic at the crossings. Currently there is an advance warning sign placed for the Jonas crossing. As testified at the hearing, DOT does not believe advance warning signs are necessary. The Commissioner agrees that advance warning signs are not necessary for southbound traffic at any of these crossings.

Appearances:

Parties

Wisconsin Department of Transportation, Petitioner
by
Mark Morrison, PE
Grade Crossing Safety Engineer
PO Box 7914
Madison, Wisconsin 53707-7914

In Support:

Wisconsin Department of Natural Resources
by
Steven A. Colden, Natural Resource Property Supervisor
1500 N. Johns Street
Dodgeville, WI 53533

In Opposition:

Wisconsin & Southern Railroad Company
by
Bernard M. Meighan, Superintendent of Maintenance
1890 E Johnson Street
Madison, WI 53704

Findings of Fact

THE COMMISSIONER FINDS:

The Wisconsin Department of Transportation petitioned the Office of the Commissioner of Railroads on behalf of the Wisconsin Department of Natural Resources (DNR). The DNR proposes to convert three existing private crossings into public crossings.

STH 78 Trail Access

STH 78 Trail Access is 24' wide and intersects the WSOR tracks at an angle of 85° (right-hand forward). The crossing consists of one mainline track. The crossing is 72' from STH 78. This roadway provides access to a DNR parking lot (12 stalls) and to several hundred acres of public land. Without this access, these public recreational lands would be landlocked. The DNR estimates STH 78 Trail Access carries 12 ADT (average daily traffic).

The railroad currently operates no through train movements over the proposed crossing location. The WSOR does use part of this line closer to Mazomanie for storage of rail cars. Operations over this crossing are unlikely in the foreseeable future.

Crossbucks will adequately protect public safety. New crossbucks will need to be installed.

The existing crossing has a 3-rail and gravel surface. The crossing is adequate for now. However, when the crossing next needs repairs those repairs shall be performed by the railroad at DNR expense. Conversion of a crossing from private to public confers maintenance responsibility on the railroad under s. 86.12 Stats. Typically when the OCR approves a new public crossing all costs are imposed on the public road authority (in this case DNR). Because of the lack of rail operations it was agreed that improvement of the crossing can be deferred, provided the DNR pays the cost when the crossing is next repaired. After the next repair the crossing will be maintained at railroad expense.

In summary, the establishment of the crossing at-grade of the Wisconsin & Southern Railroad Co. tracks with STH 78 Trail Access will promote public safety and convenience by providing needed access to public recreational lands.

Jonas Trail Access

Jonas Trail Access is 10' wide and intersects the WSOR's Prairie du Chien line at an angle of 85° (right-hand forward). The crossing is 75' from STH 80/133. The crossing consists of one mainline track.

This roadway provides access to a DNR parking lot (13 stalls) and to several hundred acres of public land. Without this access these public recreational lands would be landlocked. The roadway also provides access to an internal road system serving Kendall Lake and other public lands. Jonas Trail Access carries 10 ADT.

The railroad currently operates 4 to 6 through train movements per week over the proposed crossing location at a speed of 25 mph.

At all crossings, except those with gates, a driver stopped 15' short of the near rail must be able to see far enough down the track, in both directions, to determine if sufficient time exists for moving their vehicle safely across the tracks to a point 15' past the far rail, prior to the arrival of a train. Required clearing sight distance along both directions of the track, from the stopped position of the vehicle, is dependent upon the maximum train speed and the acceleration characteristics of the "design" vehicle. The necessary clearing sight distance at the Jonas Trail Access crossing is 455' for a single-unit truck. In order to provide the necessary clearing sight distance the WSOR needs to clear its right-of-way of trees and brush for 455' in each direction. The railroad indicated it had no objection to the DNR performing the brushing provided that they first contact the railroad to ensure that no trains are operating on the day the brushing is done.

In order to adequately protect public safety, crossbucks and stop signs are needed. "Parallel tracks" advance warning signs on STH 80/133 are not needed based on the low volume of traffic on the road and the tracks. Given the narrow width of the Jonas Trail Access it is likely that vehicles turning from STH 80/133 will be moving at very low speeds.

The existing crossing has a single mud rail and gravel surface. The crossing is approximately 10 years old. The WSOR argued that the crossing should be upgraded to its standard timber plank and

gravel at the time the crossing becomes public. This argument is reasonable. As noted above, conversion of a crossing from private to public confers maintenance responsibility on the railroad under s. 86.12 Stats. Typically when the OCR approves a new public crossing all costs are imposed on the public road authority (in this case DNR). A 16'-wide crossing will be adequate.

The railroad also argued that the DNR should be required to clear snow from the crossing to prevent snow and ice from being packed into the flange ways. Snow and ice compaction can cause trains to derail. The railroad reported that it currently salts this crossing to prevent compaction. Normally the OCR does not address snow-removal on public roads because public authorities are required to remove snow from public roads. It is unclear whether those statutes apply to DNR. The railroad has a valid point. If the crossing is going to be open to the public then it should be maintained to prevent compaction. The order does not specify the method of this routine maintenance, but it could be done by plowing, hand-shoveling, or salting.

In summary, the establishment of the crossing at-grade of the Wisconsin & Southern Railroad Co. tracks with Jonas Trail Access will promote public safety and convenience by providing needed access to public recreational lands.

Thiede Trail Access

Thiede Trail Access is 10' wide and intersects the WSOR's Prairie du Chien line at an angle of 80° (left-hand forward). The roadway dips between the crossing and STH 80/133. DNR plans to add a 10'-wide aggregate base course to the roadway to reduce the steepness of the approach to both the crossing and the intersection. The crossing is 73' from STH 80/133. The roadway dips between the crossing and STH 80/133. The crossing consists of one mainline track.

The DNR plans to build a 6 to 8 stall parking lot north of the tracks. DNR estimates Thiede Trail Access will carry 2 ADT.

The railroad currently operates 4 to 6 through train movements per week over the proposed crossing location at a speed of 25 mph.

The necessary clearing sight distance at the Thiede Trail Access crossing is 455'. In order to provide the necessary clearing sight distance the WSOR needs to clear its right-of-way of trees and brush for 455' in each direction. The railroad indicated it had no objection to the DNR performing the brushing provided that they first contact the railroad to ensure that no trains are operating on the day the brushing is done.

In order to adequately protect public safety, crossbucks and stop signs are needed. "Parallel tracks" advance warning signs on STH 80/133 are not needed based on the low volume of traffic on the road and the tracks. Given the narrow width of the Jonas Trail Access it is likely that vehicles turning from STH 80/133 will be moving at very low speeds.

The existing crossing has a three-rail and gravel surface. The crossing is approximately 10 years old. The WSOR argued that the crossing should be upgraded to its standard timber plank and gravel at the time the crossing becomes public. This argument is reasonable. A 16'-wide crossing will be adequate.

As discussed above, the DNR will need to remove snow from the crossing to prevent compaction. The order does not specify the method of this routine maintenance, but it could be done by plowing, hand-shoveling, or salting.

In summary, the establishment of the crossing at-grade of the Wisconsin & Southern Railroad Co. tracks with Thiede Trail Access will promote public safety and convenience by providing needed access to public recreational lands.

Source of funding: The DNR shall pay all costs required to establish these three public crossings.

Ultimate Conclusions on the Issues

THE COMMISSIONER CONCLUDES:

1. That the establishment of the crossing at-grade of Thiede Trail Access with the Wisconsin & Southern Railroad Co. tracks in accordance with the design plans of the Department of Natural Resources in the Town of Pulaski, Iowa County will promote public safety and convenience.

2. That the establishment of the crossing at-grade of Jonas Trail Access with the Wisconsin & Southern Railroad Co. tracks in accordance with the design plans of the Department of Natural Resources in the Town of Pulaski, Iowa County will promote public safety and convenience.

3. That the establishment of the crossing at-grade of STH 78 Trail Access with the Wisconsin & Southern Railroad Co. tracks in accordance with the design plans of the Department of Natural Resources in the Town of Mazomanie, Dane County will promote public safety and convenience.

4. That establishment of each crossing is advisable under all the circumstances.

5. That in order to adequately protect and promote public safety, it is necessary to install and maintain reflective crossbucks at the STH 78 Trail Access crossing and crossbucks and stop signs at the Thiede Trail Access and Jonas Trail Access crossings.

6. That it is reasonable that the Wisconsin & Southern Railroad Co. bear no part of the cost for the crossing construction.

Conclusion of Law

THE COMMISSIONER CONCLUDES:

That the jurisdiction of the Office of the Commissioner of Railroads under §§195.28 and 195.29, Stats., extends to this matter. Accordingly, the Office enters an order consistent with the findings of fact.

Order

THE COMMISSIONER ORDERS:

1. That the **Wisconsin & Southern Railroad Co.** shall install and maintain a 16'-wide timber-plank and gravel crossing at-grade of **Thiede Trail Access** with its tracks in accordance with the design plans of the Department of Natural Resources in the Town of Pulaski, Iowa County by **June 30, 2005**.
2. That the **Wisconsin & Southern Railroad Co.** shall install and maintain a 16'-wide timber-plank and gravel crossing at-grade of **Jonas Trail Access** with its tracks in accordance with the design plans of the Department of Natural Resources in the Town of Pulaski, Iowa County by **June 30, 2005**.
3. That the **Wisconsin & Southern Railroad Co.** shall install and maintain retroreflective back-to-back crossbucks with 2" wide reflective vertical strips on the front and back of the support posts on each approach to the crossing of its tracks with **STH 78 Trail Access** at-grade in the Town of Mazomanie, Dane County by **June 30, 2005**.
4. That the **Wisconsin & Southern Railroad Co.** shall install and maintain retroreflective back-to-back crossbucks with 2" wide reflective vertical strips on the front and back of the support posts on each approach to the crossings of its tracks with **Thiede Trail Access and Jonas Trail Access** at-grade in the Town of Pulaski, Iowa County by **June 30, 2005**.
5. That the **Wisconsin & Southern Railroad Co.** shall clear brush and trees from its right-of-way for 455' down the tracks in each direction from the **Thiede Trail Access and Jonas Trail Access** crossings by **June 30, 2005**. That the **Wisconsin Department of Natural Resources** may perform the brush and tree clearing work upon agreement of the Wisconsin & Southern Railroad Co.
6. That the **Wisconsin Department of Natural Resources** shall install and maintain stop signs on separate posts on each approach to the crossing of the Wisconsin & Southern Railroad Co. tracks with **Thiede Trail Access and Jonas Trail Access** crossings in the Town of Pulaski, Iowa County by **June 30, 2005**.
7. That the **Wisconsin Department of Natural Resources** shall routinely clear snow and ice from the **Thiede Trail Access and Jonas Trail Access** crossings .
8. That the **Wisconsin & Southern Railroad Co.** shall install and maintain a 16'-wide timber-plank and gravel crossing at-grade of **STH 78 Trail Access** with its tracks when the crossing next needs repairs and the **Wisconsin Department of Natural Resources** shall reimburse the railroad for the cost to install the crossing.
9. That the **Wisconsin & Southern Railroad Co.** shall bear no part of the cost of the crossing construction, except for any cost assessed to the railroad pursuant to §195.60, Stats., for the investigation of this matter by the Office. The railroad shall not pass on those assessment costs either directly or indirectly.

10. That jurisdiction is retained.

Dated at Madison, Wisconsin, _____.

By the Office of the Commissioner of Railroads.

Rodney W. Kreunen
Commissioner of Railroads

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